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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Streamlining the Commission's
Rules and Regulations for Satellite
Application and Licensing Procedures

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) IB Docket No. 95-117
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

COMMENTS OF HUGHES COMMUNICATIONS GALAXY, INC.

With the creation of the International Bureau in 1994, the Commission signalled its increased commitment to the growth and vitality of the U.S. satellite industry. In its first year, the International Bureau has fulfilled its promise, soliciting industry input on a host of matters, and quickly implementing changes where possible. Through this rulemaking, the Commission continues these efforts to streamline satellite licensing procedures.

Hughes Communications Galaxy, Inc. ("HCG") through its fleet of domestic communications satellites, has provided a wide variety of reliable satellite services for over a decade. HCG satellites provide the means for commercial television and radio distribution, teleconferencing, video backhaul, high speed image transmission (*e.g.*, medical imaging), educational programming, and private data networks, among other services. Countless end users across the country rely on these services every day.

HCG applauds the Commission's efforts to streamline its satellite rules, and offers the following comments.

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1. *Eliminating Construction Permits*

The Commission has proposed eliminating the requirement that applicants obtain either a construction permit or waiver of Section 319(d) of the Communications Act. The Commission has proposed to substitute these procedures by allowing a potential applicant to notify the Commission in writing that it is beginning construction and acknowledges that it is proceeding at its own risk. *Notice* at ¶ 7.

HCG agrees with the Commission that the construction permit requirement should be eliminated and that the 319(d) waiver process should, in effect, be simplified to allow an applicant to submit a letter acknowledging that it is assuming the risk that a license will not be granted for the satellite. Eliminating these requirements will allow the satellite industry to engage in long-term planning unconstrained by regulatory limitations upon the initiation of construction.

The notification, as proposed, will not, however, eliminate all the problems of the current system. It is still unclear when "construction" of a satellite is deemed to have commenced. Under the current rules, potential applicants or their manufacturers may be required to attempt to distinguish between building for inventory, engaging in preliminary design work, procuring long lead-time items, and beginning the actual physical construction of the space station. The proposed rule should be designed to eliminate this uncertainty.

If the Commission's goal is to obtain an acknowledgement that the applicant is proceeding at its own risk, an annual certification to this effect would serve this purpose while avoiding the difficulty of determining whether construction has indeed commenced. In addition, because the initiation of construction may be, in itself, sensitive business information, annual certification would allow potential applicants to avoid disclosing such

information. Although the Commission has not proposed a specific rule on this subject, the procedure should be codified in the rules so that the timing and contents of the notification are clear.

2. *Elimination of Application Requirements*

Satellite applicants are currently required to submit much information that is burdensome or unnecessary. In the spirit of many other changes made by the International Bureau, the Commission has proposed to eliminate these redundant requirements. *Notice at ¶¶ 9-10.* HCG agrees that much of this information is not relevant to the Commission's public interest determination and should therefore no longer be required.

3. *Clarification of Existing Rules*

The Commission has proposed to clarify several of its current rules, many of which are either confusing or duplicative. *Notice at ¶ 11-12.* HCG welcomes these changes, and, in particular, supports the Commission's elimination of automatic cut-off dates in favor of explicit notice of the cut-off period and its proposal to allow all space stations to be proposed on a single application.

4. *Reduction of FSS Space Station Reporting Requirements*

HCG agrees that requiring satellite space station operators to submit reports twice a year is unduly burdensome and that annual reporting will provide the Commission with sufficiently current information. *See Notice at ¶ 13.* While the Commission has proposed to eliminate some of the information required in these reports, it has not eliminated all requests for irrelevant information. Specifically, when a transponder has been sold to an unaffiliated entity, operators are typically unable to report the "percentage of time each transponder is actually used for transmission and the amount of unused systems capacity,"

id., nor does the concept of "use" have much significance where a user has paid to own all the usage rights on a transponder. In the case of a sold transponder, the Commission should allow the operator to report only that it has been sold and is therefore, from the operator's point of view, effectively in use 24 hours per day, regardless of the number of hours per day the purchaser is sending a modulated signal over that transponder.

5. *Eliminating Application Requirements for Inclined Orbit Operations*

HCG agrees that the Commission need not continue to require licensees to obtain prior authorization for inclined orbit operations, and should encourage this more efficient use of spectrum through extension of satellites' useful lives. *See Notice* at ¶ 15. The Commission, however, must remain vigilant in ensuring that such operations do not interfere with other geostationary satellite operations or with the introduction of new, state-of-the-art satellite service. In particular, the notification letter provided by inclined orbit operators should include identification of, and be served upon, the satellite operator with follow-on rights to the orbital location, so that all interested parties have notice that the satellite no longer maintains station keeping.

6. *Adoption of the New Multipart Form 312*

The elimination of several different filing forms, many of which are not tailored to the satellite industry, can only benefit both the Commission and industry. *See Notice* at ¶¶ 26-28. In addition, the Commission has proposed to eliminate the narrative section describing the proposed applicant and system, which it has found to be redundant. *Id.* at ¶ 22. These proposals reduce paperwork and confusion and allow greater flexibility to the Commission. HCG welcomes these changes.

7. *Updating the ASIA Database*

HCG agrees with the Commission that its current database for analyzing all Ku, Ka, and C Band proposals is out of date. *See Notice* at ¶ 29-30. While the ASIA computer program may not provide the most streamlined analysis to determine interference -- and therefore the Commission should remain open to other suggestions to improve the program -- updating the current database would still be helpful.

Respectfully submitted,

HUGHES COMMUNICATIONS GALAXY,
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CERTIFICATE OF SERVICE

I certify that I have this 4th day of October, 1995 caused to be delivered by hand the foregoing Comment of Hughes Communications Galaxy, Inc. to the following:

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